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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,303	03/12/2004	Michael J. Akrep	76015-3	7828

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EXAMINER

WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/799,303

Applicant(s)

AKREP, MICHAEL J.

Examiner

Alfred Joseph Wujciak III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-11 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the final Office Action for the serial number 10/799,303, LINEAR ADJUSTMENT DEVICE AND LINEAR ADJUSTMENT SYSTEM INCORPORATING THE DEVICE AND METHOD OF USE, filed on 3/12/04.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12, line 3, "the main structural member" is indefinite because it cites combination/subcombination problem. "The main structural member" is not positively cited in the preamble of claim 1.

Claims 13-16 are rejected as depending on rejected claim 12.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 12-19 are rejected under 35 U.S.C. 102(b) as being anticipated by

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US Patent # 5,746,567 to Herbermann et al.

Herbermann et al. teaches a linear adjustment device/system comprising a positioning mechanism (figure 5) including a rod (58), a first pipe (adjacent to element 56 at the left side) slidably engaged with the rod and a second pipe (adjacent to element 56 at the right side) slidably engaged with the rod. The mechanism includes a load sleeve (56 at the left side), wherein the load sleeve is secured to the first pipe and an anchor sleeve (56 at the right side) wherein the anchor sleeve is secured to the second pipe. The system includes a main structural element (54). The load sleeve and the anchor sleeve are disposed on the main structural member. The system includes a fastening means (64) for securing the anchor sleeve to the main structural member. The system further comprises a second linear adjustment device comprises a positioning mechanism (located on the other side element 54 in figure 5) comprising rod, first and second pipes, load sleeve and anchor sleeve. The load sleeve comprises a top portion opposite to a bottom portion. The top and bottom portions envelop the main structural member and the bottom portion is configured to hold the load. The bottom portion of the load sleeve comprises a pipe/hole/eye for holding the load. The main structural member and the anchor sleeve comprise complementary means (figures 7-8) for securing the anchor sleeve to the main structure member. The anchor sleeve comprises a top layer having an upper hole (located on element 64) and a bottom layer opposite to the top layer comprising a lower hole aligned with the upper hole.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herbermann et al.

Herbermann et al. teaches a linear adjustment device/system comprising a positioning mechanism (figure 5) including a rod (58), a first pipe (adjacent to element 56 at the left side) slidably engaged with the rod and a second pipe (adjacent to element 56 at the right side) slidably engaged with the rod. The mechanism includes a load sleeve (56 at the left side), wherein the load sleeve is secured to the first pipe and an anchor sleeve (56 at the right side) wherein the anchor sleeve is secured to the second pipe. The system includes a main structural element (54). The load sleeve and the anchor sleeve are disposed on the main structural member. The system includes a fastening means (64) for securing the anchor sleeve to the main structural member. The system further comprises a second linear adjustment device comprises a positioning mechanism (located on the other side element 54 in figure 5) comprising rod, first and second pipes, load sleeve and anchor sleeve.

Herbermann et al. teaches the first pipe and second pipe are connected to the rod but fails to teach the first pipe and second pipe are connected to the rod by a first securing element and a second securing element, however in figure 1a in Herbermann et al.'s invention which is a different embodiment shows clamp having the securing element (31b) mounted on the rod. It would have been obvious for one of ordinary skill in the art at the time the invention was made

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to have used the securing element to the first and second pipes to prevent the rod from sliding in and out of the first and second pipes.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herbermann et al. in view of US Patent # 5,251,993 to Sigourney.

Herbermann et al. teaches the first securing element and second securing element but fails to teach the first securing element comprising a first nut disposed adjacent to a first terminal end of the first pipe and a second nut disposed adjacent to a second terminal end of the first pipe and the second securing element comprises a first nut disposed adjacent to a first terminal end of the second pipe and a second nut disposed adjacent to a second terminal end of the second pipe. Sigourney teaches the first securing element comprising a first nut (35) and a second nut (36) and the second securing element comprising a first nut (45) and a second nut (46). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Herbermann et al.'s first securing element and second securing element with the first and second nuts as taught by Sigourney to provide alternative method for securing rod on the first and second pipes.

Allowable Subject Matter

Claim 7 is allowed.

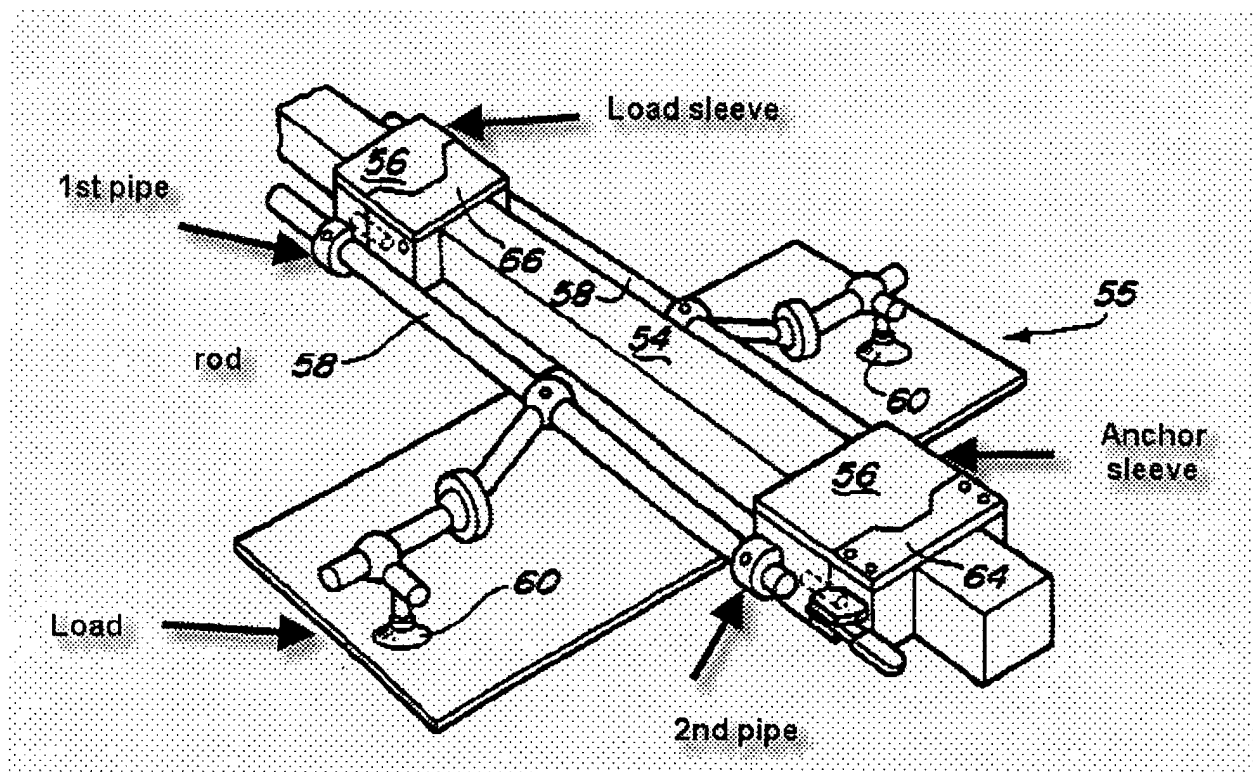
The prior art fails to teach wherein the upper hole of the anchor sleeve is aligned with the upper hole of the main structural member and the lower hole of the anchor sleeve is aligned with the lower hole of the main structural member.

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Response to Arguments

Applicant's arguments filed 4/26/05 have been fully considered but they are not persuasive.

On page 8, the applicant argues that Herbermann's load sleeve does not support a load. The examiner disagrees with the applicant because Herbermann's invention is designed to hold workpiece, which is considered as load, on the structural member. Since workpiece has weight and that it requires bracket or sleeve to support it on the structural member. If the load sleeve does not support the workpiece, it would not be suspended adjacent to the structural member and that there would be no way of handling the workpiece along the rod and structural member.



Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III
Examiner
Art Unit 3632 *ATW*

7/5/05

Robert P. Olszewski 7/6/05
ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
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